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Planning Board, Village of Wesley Hills
432 Route 306
Wesley Hills, NY 10952

Re: Rockland Tree Experts Co., Inc., d/b/a Ira Wickes/Arborists

Dear Members:

We represent the applicant in the above matter, which seeks approval of a site plan and special permit to continue an arborist/landscaping service at the subject site. The Rockland County Planning Department issued a GML review dated July 24, 2023, which recommended modifications to the project. The review was triggered by the site's proximity to two County roads (Union Rd/New Hempstead Rd and McNamara Rd) and the Village of New Hempstead.

The applicant's responses follow.

1 Special permit uses are, by definition, subject to a higher standard of review than as-of-right uses. The Village shall be satisfied that the arborist service, landscape surface, and wholesale nursery complies with the general standards for special permit uses outlined in Section 230-22, as well as the individual standards and requirements listed in Section 230-26N.

The applicant's narrative addresses the special permit requirements.

2 Section 230-26N(2) requires the proposed use to have frontage on, and practical access to, two major roads. Standard access to the site is via McNamara road and emergency access will be provided from Union Road. Since "practical access" is not defined in the Village Code, the Planning Board shall be assured that this requirement is met for the site.

Comment noted.

3 Section 230-26N(12) prohibits the grinding or chipping of trees, branches, and stumps; preparation of mulch or other material resulting from the decomposition of organic material; storage of mulch produced elsewhere except in compartments and areas expressly designated for such storage and in amounts in compliance with Subsection N(6); and the on-site retail sale of plants or other materials. The project narrative states

the site complies with the first three restrictions, but does not address the retail sale of plants and other materials. The Planning Board shall be assured that no on-site sales of these materials will occur.

There will be no on-site retail sales.

4 Section 230-26N(13) states that the applicant must demonstrate that the proposed activities will not result in a degradation of surface water or groundwater quality by the submission of a water quality assessment. The project narrative indicates the assessment was prepared in January 2005. The Planning Board shall determine whether this is sufficient, or if a new one must be prepared since over 15 years have passed since the previous assessment was prepared.

Comment noted.

5 The applicant shall satisfactorily address the comments made by the Rockland County Highway Department in their letter dated June 13, 2023.

The applicant responded to the Rockland County Highway Department by letter dated July 17, 2023 (copy attached). The applicant will continue to work with the Department to resolve differences.

6 As per their letter dated July 17, 2023, application is to be made to the Rockland County Department of Health for review of the stormwater management system to ensure compliance with the County Mosquito Code.

Agreed.

7 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northern and eastern property lines of the site. New York State General Municipal Law states that the purposes of Sections 239-I, 239-m and 239-n shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations with respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards to predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area.

The Village of New Hempstead must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage,

stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

Comment noted. The Village of New Hempstead submitted comments in a letter dated August 1, 2023.

8 Section 230-26N(7) of the Village's zoning regulations states "The preparation of all plant health materials shall be conducted in an environmentally safe manner on the premises in accordance with all other relevant laws and regulations." The application, storage, or sale of pesticides requires licenses from the New York State Department of Environmental Conservation (NYSDEC). More information can be found at <https://www.dec.ny.gov/permits/96354.html> and <https://www.dec.ny.gov/regulations/8527.html>. The Village must be assured that all necessary licenses from the NYSDEC have been obtained if any pesticides are to be used, stored, or sold on the site.

The applicant possesses all necessary NYSDEC licenses for storage of pesticides on-site (copies attached). No pesticides are sold or applied on-site.

9 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Erosion and Sediment Control.

Comment noted.

10 There shall be no net increase in the peak rate of discharge from the site at all design points.

The applicant has submitted drainage calculations showing compliance with this standard.

11 A total of 28 standard parking spaces are proposed, with one accessible space included. As required by the Americans with Disabilities Act (ADA), parking areas with 26 - 50 spaces must provide at least two accessible spaces, one of which must be van-accessible. An additional accessible space must be provided to comply with ADA standards.

An additional accessible parking space has been added to the right of the existing proposed space near the southwestern corner of the building.

12 Areas designated for snow removal must be clearly delineated on the site plan and in the field so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by employees. In addition, this will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion.

Snow storage has been shown in three locations: in the western portion of the site, adjacent to the materials storage bins and opposite the building entrance, and at the southeastern corner of the site.

13 The garbage enclosure to the west of the accessible space appears to encroach into the southernmost truck space. The enclosure must be relocated, or the truck spaces redesigned, so that there are no conflicts.

The garbage enclosure has been redesigned to eliminate any conflicts.

14 No SEQRA documentation was provided with this application. When our department reviewed the site plan and special permit in February 2010, a Full Environmental Assessment Form was submitted. Updated SEQRA documents must be submitted.

A short EAF was submitted with the initial application materials. As the action is an Unlisted action under SEQRA, a short EAF is acceptable.

15 The project narrative references several sections of the Village Zoning Code, such as Sections 4.3.7 and 6.9.16. This is a former version of the Code and it is no longer structured in this manner. The Zoning Code is now Chapter 230 of the Village Code. The project narrative must be corrected to reference the current Code.

Subsequent versions of the narrative will refer to new code numbers. The substance of the code sections cited has not changed.

16 No lighting plan was provided. If any new lighting is proposed, a lighting plan shall be submitted that demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

No new lighting is proposed.

17 If any new signage is proposed, it must be shown on the site plan and conform to Section 230-26N(11). If any variances are required for the signage, we request the opportunity to review them, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

Comment noted.

18 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

Comment noted.

19 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

Comment noted.

20 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Comment noted.

21 The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The board may have already addressed this point or may disregard it without any formal vote under the GML process:

21.1 Section 230-17B of the Village Code, as posted online at ecode360.com, indicates arborist services, landscape services, and/or wholesale nurseries are a permitted special permit use in the R-50, R-20, and R-15 zoning districts, but not the R-35 zoning district. This shall be corrected.

The applicant has no control over the content of online code postings by or on behalf of the Village. This is an internal Village administration matter.

Very truly yours,
EMANUEL LAW P.C.



By: _____
Ira M. Emanuel, Esq.

Cc: Client